

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 2542 of 2002
With
CIVIL APPLICATION No. 462 of 2006
In
SPECIAL CIVIL APPLICATION No. 2542 of 2002

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PRAFULBHAI PASHABHAI PATEL - Petitioner(s)
Versus
CHARITY COMMISSIONER & 6 - Respondent(s)

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Appearance :

MR JA ADESHRA for Petitioner(s) : 1,
MR TS NANAVATI for Respondent(s) : 1,
MR ND GOHIL AGP for Respondent(s) : 2 - 3.
RULE SERVED for Respondent(s) : 4,
MR DC DAVE for Respondent(s) : 5,
MR AJ PATEL for Respondent(s) : 6 - 7.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 09/03/2006

ORAL ORDER

1.This matter is heard finally today. After the matter was heard by this Court, Mr.A.J. Patel, learned advocate appearing on behalf of the

respondent No.7 who has purchased the land in question from the respondent No.6 for a consideration of Rs.22,97,214.00 has submitted that as such he has submitted an application being Civil Application No.462 OF 2006 to set aside the sale in their favour. He has also submitted that he has no objection if the sale in favour of the respondent No.7 is set aside and/or declare as invalid by this Court. Mr.Patel, who also appears on behalf of the respondent NO.6 has also submitted that the respondent No.6 has also no objection if the sale transaction for the land in question in favour of the respondent No.6 by Sabarmati Harijan Ashram Trust is set aside and/or declared invalid.

2.Mr.Keratiram Punjalal Chavla – respondent No.6 herein and Mr.Prakashchandra M. Aggraval, Chairman of the respondent No.7 – Panchshil

(Ranip) Owners' Association, are personally present in the Court. Mr.Patel, learned advocate appearing on behalf of the respondent Nos.6 and 7 have made the aforesaid statement under the instructions of their aforesaid clients namely respondent Nos.6 and 7.

3.In view of the above facts and considering the fact that there is some dispute within the trust, without entering into the same, it will be appropriate at this stage to restore the possession and/or hand over the possession of the land in question to the Charity Commissioner.

4.At this stage, Mr.Patel, learned advocate appearing on behalf of the respondent Nos.6 and 7 under the instructions of their respective clients who are personally present in the Court has submitted that respondent Nos.6 and 7 would

jointly hand over the possession of the land in question to the Charity Commissioner by tomorrow i.e. 10/3/2006 before 12.00 noon.

5.The Charity Commissioner is hereby directed to receive the possession of the land in question and keep the same in his possession, subject to further orders that may be passed by this Court in suo-motu petition being Special Civil Application No.14920 of 2003.

6.It is, however, observed that it will be open for the respondent No.7 to get back the amount which is paid to the respondent No.6 by way of sale consideration. It is also observed that it will be open for the respondent No.6 to get back the amount which is paid to Sabarmati Harijan Ashram Trust. So far as the amount to be returned to the respondent No.6 by Sabarmati Harijan Ashram Trust is concerned, the same

shall be returned with interest @ 6% p.a. from the date of payment of the sale consideration till realisation.

7.The aforesaid arrangement of handing over the possession of the land in question to the Charity Commissioner is also accepted by Mr.Adesara, learned advocate appearing on behalf of the petitioner.

8.In view of the above, the present petition is allowed. The sale of the land in question in favour of the respondent No.6 namely Panchmahal Jilla Vikas Sangh, Zalod by Sabarmati Harijan Ashram Trust as well as the sale of the land in question in favour of the respondent No.7 namely Panchshil (Ranip) Owners' Association by the respondent No.6 namely Panchmahal Jilla Vikas Sangh, Zalod are hereby quashed and set aside and declared invalid. The respondent

Nos.6 and 7, namely Panchmahal Jilla Vikas Sangh, Zalod and Panchshil (Ranip) Owners' Association, Ghatlodiya, Ahmedabad are hereby directed to hand over the possession of the land in question to the Charity Commissioner, Ahmedabad, as aforesaid by 10/3/2006. **Further detailed order will be passed by this Court subsequently.** Rule is made absolute to the aforesaid extent with no order as to costs.

(M.R.SHAH,J.)

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